

Assembly Bill No. 1098

Passed the Assembly August 30, 2007

Chief Clerk of the Assembly

Passed the Senate August 27, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 25514.5 and 25540 of, and to add Section 25540.1 to, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1098, Saldana. Hazardous materials: administrative: penalties: liability.

(1) Existing law requires that, in order to protect the public health and safety and the environment, a business, as defined, establish and implement a business plan, meeting specified requirements, relating to the handling and release or threatened release of hazardous materials. A business that violates or knowingly violates any provision with regard to the business plan is liable to an administering agency for a prescribed administrative penalty.

This bill would remove the requirement that the amount of the administrative penalty be set by the governing board of the administrative agency.

(2) Existing law requires the implementation of the federal accident release prevention program, established pursuant to the federal Clean Air Act, with regard to the handling and storage of chemical and hazardous substances, along with certain amendments specific to the state. If there is a violation of the provisions of the program, specified administrative civil liability shall be imposed. If there is a knowing violation of the provisions of the program, after reasonable notice, specified administrative civil liability shall be imposed, and upon conviction the person may be punished by imprisonment in a county jail for not more than one year. An administering agency is required to utilize specified enforcement procedures when an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of those requirements.

This bill would instead provide that the person or stationary source that violates those provisions is civilly liable to the administering agency. The bill would specify that a person or

stationary source that knowingly violates those provisions after reasonable notice of the violation is guilty of a misdemeanor.

The people of the State of California do enact as follows:

SECTION 1. Section 25514.5 of the Health and Safety Code is amended to read:

25514.5. (a) Notwithstanding Section 25514, any business that violates this article is liable to an administering agency for an administrative penalty not greater than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire or health or medical problem requiring toxicological, health, or medical consultation, the business shall also be assessed the full cost of the county, city, fire district, local EMS agency designated pursuant to Section 1797.200, or poison control center as defined by Section 1797.97, emergency response, as well as the cost of cleaning up and disposing of the hazardous materials, or acutely hazardous materials.

(b) Notwithstanding Section 25514, any business that knowingly violates this article after reasonable notice of the violation is liable for an administrative penalty, not greater than five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) When an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the administering agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

SEC. 2. Section 25540 of the Health and Safety Code is amended to read:

25540. (a) Any person or stationary source that violates this article shall be civilly liable to the administering agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Any person or stationary source that knowingly violates this article after reasonable notice of the violation shall be civilly liable

to the administering agency in a amount not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials.

(c) When an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the administering agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

SEC. 3. Section 25540.1 is added to the Health and Safety Code, to read:

25540.1. A person or stationary source that knowingly violates this article after reasonable notice of the violation is guilty of a misdemeanor and may, upon conviction, be punished by imprisonment in a county jail not to exceed one year. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials.

Approved _____, 2007

Governor